

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Bail Appl..No. 4186 of 2007()

CRIME NO.119/2007 OF VALLIKUNNAM POLICE STATION

: PETITIONERS/1ST & 5TH ACCUSED:

1. PRABHAKARAN PILLAI,
PRIYALAYAM, PUTHENCHANDA, VALLIKUNNAM.

2. USHA,
PRIYALAYAM, PUTHENCHANDA, VALLIKUNNAM.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS: COMPLAINANT/STATE:

S.I. OF POLICE,
VALLIKUNNAM POLICE STATION, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.4186 of 2007

Dated this the 11th day of July, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 & 5. They are husband and wife. Altogether there are 8 accused persons. The crux of the allegation is that on 27.06.07 at 9 p.m near the house of the 1st accused, the accused persons attacked the defacto complainant on account of prior animosity. The 1st accused allegedly inflicted serious and grave injuries on the defacto complainant using a dangerous weapon - an iron rod. Allegations have been raised, inter alia, under Sections 324 and 308 r/w 149 I.P.C. Investigation is in progress. Accused 2 and 3 have been arrested. They continue in custody. The petitioners apprehend imminent arrest.

2. According to the learned counsel for the petitioners, the petitioners are absolutely innocent. They have no role in the incident at all. The 1st accused is a person owing allegiance to the C.P.M. On account of political rivalry and animosity, baseless allegations have been raised against the petitioners. In these circumstances, it is prayed that anticipatory bail may be granted to the petitioners.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail of the 5th accused, though there is an allegation that she was also a member of the unlawful assembly and had

participated in the incident by beating the defacto complainant with her hands. Subject to appropriate conditions, anticipatory bail can be granted to the 5th accused, it is submitted.

4. So far as the prayer of the 1st accused is concerned, the learned Public Prosecutor opposes the application vehemently. Specific overt acts have been alleged against the 1st accused. He was wielding a dangerous weapon. Serious injuries have resulted. The defacto complainant continues even now in the I.C.U. The 1st accused may not, in these circumstances, be permitted to arm himself with an order of anticipatory bail at this early stage. This is a fit case where the 1st accused must resort to the ordinary and normal procedure of surrendering before the Investigating Officer or the learned Magistrate. He must then seek regular bail, it is submitted.

5. Having considered all the relevant inputs, I find merit in the opposition raised by the learned Public Prosecutor against the claim for anticipatory bail of the 1st accused. At present and on the basis of the available inputs, it would be puerile for this Court to sail to a conclusion that the allegations are false and are raised with vexatious intent. I am of the opinion that the petitioners must appear before the Investigating Officer and co-operate with the expeditious investigation. He can move for bail thereafter.

6. In the result, the Bail Application is, allowed in part.

a) The prayer for anticipatory bail filed by the 1st petitioner/1st accused is dismissed. Needless to say, if the 1st petitioner surrenders before the investigator or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

b) The prayer for anticipatory bail of the 2nd petitioner/5th accused is allowed. The following directions are issued under Section 438 Cr.P.C in favour of her.

i) The 2nd petitioner shall appear before the learned Magistrate at 11 a.m on 18.07.2007. She shall be enlarged on regular bail on her executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The 2nd petitioner shall make herself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 19.07.2007 and 20.07.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the 2nd petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest

the 2nd petitioner and deal with her in accordance with law as if those directions were not issued at all;

iv) If the 2nd petitioner were arrested prior to her surrender on 18.07.07 as directed in clause (1) above, she shall be released on bail on her executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 18.07.07.

(R.BASANT, JUDGE)

rtr/-